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1 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

1 In re: Application of ]  
Dale A. Christensen et al.

5 Serial No.: 10/786,664 ]

Filed: February 25, 2004 ]

Title: IRRIGATION DRIVE UNIT ]

Group No.: 3752 ]

BEFORE THE BOARD  
OF PATENT APPEALS  
AND INTERFERENCES

Appeal No. \_\_\_\_\_

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APPELLANTS' REPLY TO EXAMINER'S ANSWER

Commissioner for Patents  
Alexandria, VA 22313

Dear Sir:

15 In the Examiner's Answer, the Examiner withdrew the rejection of claims 1-5 under 35 U.S.C. § 112, second paragraph, as being indefinite for reciting "a plurality of spaced-apart drive units" and "at least one of said drive units including a generally transversely extending base beam having first and second ends." However, the Examiner maintained his final rejection of claims 1-5 under 35 U.S.C. § 112, second paragraph, as being indefinite because the recitation of "a first in-line drive assembly" and "a second in-line drive assembly" in claim 1, lines 6 and 8, respectively, are double inclusions of the "drive units" recited in line 3. The Examiner believes that the first and second in-line drive assemblies are sub-assemblies of the drive units. The

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1 Examiner contends that the claims should have been amended to read --the at least  
one drive unit further including a first in-line drive assembly pivotally connected to said  
base beam adjacent said first end thereof and a second in-line drive assembly  
pivotally connected to said base beam adjacent said second end thereof--.

5 The specification clearly states that the irrigation system includes a plurality of  
spaced-apart drive units or towers which support an elongated irrigation pipeline which  
moves over the area to be irrigated. Appellants do not believe that the recitation of the  
first in-line drive assembly and the second in-line drive assembly is a double inclusion.  
10 If claim 1 had stated that the elongated pipeline was supported upon a plurality of  
spaced-apart towers, would the recitation of the first and second in-line drive  
assemblies be a double inclusion, as suggested by the Examiner? It is respectfully  
submitted that claims 1-5 are not objectionable under 35 U.S.C. § 112, second  
paragraph, as being indefinite, but Appellants are certainly willing to amend claim 1 as  
15 suggested by the Examiner if the same would overcome that rejection.

Claims 1, 2, 4 and 5 were rejected under 35 U.S.C. § 102(b) as being  
anticipated by Chapman (6,131,833). Accordingly, it is believed that the Examiner has  
agreed to allow claim 3, if the Section 112 rejection is overcome, which specifically  
20 states that each of the first and second drive assemblies includes a drive motor and  
two gearboxes operatively connected to the driven wheels.

Appellants contend that the Examiner's rejection of claims 1, 2, 4 and 5 under  
35 U.S.C. § 102(b) as being anticipated by Chapman (6,131,833) is in error. It is the  
Examiner's contention that Chapman anticipates claims 1, 2, 4 and 5 on the grounds

1 that the idler wheels 48 in Chapman are driven wheels. Chapman clearly describes  
that the wheels 48 are idler wheels, which does not connote that the idler wheels 48  
are "driven" as is commonly understood in the art and is easily understood by a person  
having ordinary skill in the art. A person skilled in the art would realize that idler  
5 wheels are not "driven," as commonly understood in the art. The Merriam Webster  
Collegiate Dictionary defines "idler wheel" as being a wheel, gear or roller used to  
transfer motion or to guide or support something. One merely has to look to the prior  
art to determine what a person of ordinary skill in the art would understand with  
10 respect to the use of the term "idler wheel". In U.S. Patent No. 5,190,363, a track  
device is illustrated and the specification thereof clearly describes that the wheel 22 is  
a driven wheel and that the wheel 24 is an idler wheel. In U.S. Patent No. 6,951,373,  
the specification describes that wheel 4 is a driven wheel and that the wheel 3 is an  
idler wheel. In U.S. Patent No. 6,926,105, the wheel 14 is described as a drive  
15 sprocket while the wheels 28, 30 and 32 are described as idler wheels. In U.S. Patent  
No. 6,904,986, wheels 22, 23 and 24 are described as idler wheels while the wheel 28  
is described as a drive wheel. In each of the prior art patents, those wheels which are  
described as idler wheels are not driven wheels, but are merely idler wheels which are  
20 rotated by the movement of the track in engagement therewith. The same is true in  
Chapman; the wheels 48 are clearly described as idler wheels and are not driven.  
Accordingly, Chapman cannot anticipate claims 1, 2, 4 and 5 since Chapman does not  
disclose a first in-line drive assembly pivotally connected to a base beam adjacent one  
25 end thereof and a second in-line drive assembly pivotally connected to the base beam

1 adjacent the second end thereof. The wheels 48 of Chapman are idler wheels and are  
not drive wheels. Therefore, the Examiner's rejection under 35 U.S.C. § 102(b) should  
be reversed.

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Respectfully submitted,



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CERTIFICATE OF MAILING

15 I hereby certify that the original of APPELLANTS' REPLY TO EXAMINER'S  
ANSWER for DALE A. CHRISTENSEN, ET AL., Serial No. 10/786,664, was mailed by  
first class mail, postage prepaid, to the Mail Stop Appeal Briefs-Patent, Commissioner  
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December, 2005.



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